**THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

**W.P.No. 5786 OF 2005**

**Dated: 28th September, 2005.**

Between:

Thadaboina Lingaiah …Petitioner

A N D

1. The Collector ( ROR), Karimnagar and Others ….Respondents

**THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

**W.P.No. 5786 OF 2005**

**ORDER:**

1. This writ petition has been filed by Thadaboina Lingaiah with a prayer to issue writ, order or direction more particularly one in the nature of writ of mandamus declaring and setting aside the order dated 6-11-2004 passed in Proc. No. D1/5030/04 on the file of the 1st respondent and order dated 17-8-2004 passed in Proc. No. A/505/2002 on the file of the 2nd respondent as illegal and arbitrary.

2. Boosa Bakkaiah, Boosa Kistaiah and Boosa Venkataramaiah are brothers. They possessed Ac. 10-08 guntas in Survey No. 130/B jointly. In division of the properties among them, each got Ac. 3-16 guntas. The petitioner claims to have purchased Ac. 3-16 guntas, comprising Survey No.130/B from Kistaiah under a simple sale deed. He initiated proceedings before the Mandal Revenue Officer, Manthani for regularization of the sale under the provisions of the Record of Rights Act. The sale has been regularized and pattadar pass book/title deed has been issued in his favour in the year 1998. Kantipudi Chekkar Rao-3rd respondent claims to have purchased Ac. 3-16 guntas in Survey No. 130/A and 0-29 guntas in Survey No. 130/B from one P. Laxmamma and Rajaiah s/o Kistaiah. More precisely he purchased Ac. 3-16 guntas comprising Survey No. 130/A from Bakkaiah and 0-29 guntas comprising S.No. 130/B from Rajaiah. He also approached the Mandal Revenue Officer for grant of pattedar pass book/title deed. The Mandal Revenue Officer issued pattedar pass-book in respect of Survey No. 130/A, admeasuring Ac. 3-16 guntas and in Survey No. 130/B admeasuring Ac. 0-29 guntas in his favour in the year 2002.

3. 3rd respondent filed appeal before the Revenue Divisional Officer questioning the issuance of pattedar pass book in respect of Ac. 0-29 guntas in Survey No. 130/B in favour of the petitioner. The appeal ended in dismissal. He carried the matter in revision to the District Collector, who set aside the order of the Revenue Divisional Officer and remanded the matter back to the Revenue Divisional Officer for fresh adjudication. On remand the Revenue Divisional Officer upheld the order of the Mandal Revenue Officer where under pattedar pass book/title deed in favour of the

3rd respondent has been issued. The relevant portion of the order passed by the Revenue Division Officer is as follows:

> "*From all the above factors it is clear that Bhoosa Bakkaiah has got 0.29 gts, of land from Sy.No. 130/B to his share due to the land bearing Sy.No. 130/A is not so fertile and so he has sold the said land along with his share land in Sy.No.130/A to his sister, who in turn sold to one Kantipudi Chakker Rao and got registered by the son of Pattedar of Sy.No.130/B to an extent of 0.29 gts. If this piece of land is not purchased by her what made her to sell this land to some other person. There may be no written evidence to support the parties took place in between brothers, but from the statement given by the sons of Purmala Lasmu that her mother purchased the land from Bhoosa Bakkaiah and in turn sold this land to Kantipudi Chekker Rao who is in possession of the same, it is clear that Kantipudi Chekkar Rao has purchased the land from Purmala Lasmu and got registered by its original pattedar's son Shri Bhoosa Rajaiah. Otherwise, there was no need to sign the registered sale deed by the son of Pattedar of Sy.No. 130/B.*
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> *The appellant has not got mutated the land in his name so it is not being recorded in revenue records. By taking advantage of this the Respondent N0.1 who purchased an extent of 2.27 Acres has created a false document for the entire extent of 3 acres 16 guntas and got 13 B certificate.*
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> *Hence, I allow this Appeal and uphold the PPB/TD issued in favour of the Appellant and direct the MRO, Kamanpur to take necessary action to delete this 0.29 gts. of land from the PPB/TD of the respondent No.1 and make necessary corrections in all Revenue Records accordingly".*

4. The petitioner carried the matter in revision before the Joint Collector (ROR) Karimnagar-1st respondent. The revision ended in dismissal. Hence, this writ petition

5. The 3rd respondent filed counter-affidavit. It is stated in the counter affidavit that he purchased Ac. 3-16 guntas comprising Survey No.130/A and 0-29 guntas in Survey No. 130/B under registered sale deeds and therefore, the Revenue Divisional Officer- appellate authority and Joint Collector-revisional authority are justified in ordering correction of entries in pattedar pass books of the petitioner by way of deletion of 0-29 gts.

6. Heard the learned counsel for the petitioner and Government Pleader for respondents No. 1 to 2 and learned counsel appearing for the respondent No.3

7. Learned counsel appearing for the petitioner submits that the petitioner purchased the land in Survey No.130/B admeasuring Ac. 3-16 guntas much earlier to the purchase of the land by the 3rd respondent under registered sale deed in respect of Survey No. 130/B. He further submits that 3rd respondent filed suit O.S.No.11 of 2003 on the file of the Junior Civil Judge, Manthani for declaration of title in respect of 0-29 guntas and therefore, the Revenue Divisional Officer ought not have ordered for deletion of said extent from the pass book of the petitioner pending disposal of the suit.

8. The learned counsel for the 3rd respondent submits that the Joint Collector-revisional authority and Revenue Divisional Officer-appellate authority having taken note of the records, came to the conclusion that 0-29 gts comprising in Survey No.130/B which has been wrongly entered in the pattedar pass book of the petitioner, ordered deletion of the same and therefore, their orders are not required to be interfered in exercise of jurisdiction under Article 226 of the Constitution of India.

9. It is no more in dispute that the petitioner obtained pattedar pass book for Ac. 3-16 guntas in Survey No. 130/B in the year 1998. After nearly four years, the 3rd respondent submitted an application for grant of pattedar pass book in his favour in respect of Ac. 3-16 guntas in Survey No.130/A and 0-29 guntas in Survey No.130/B. He claims that he purchased 0-29 guntas under a simple sale deed. There seems to be no document evidencing the purchased of 0-29 guntas by Laxmamma. Be that as it may. The 3rd respndent has filed a suit being O.S.No.11 of 2003 on the file of Junior Civil Judge, Manthani for declaration of title in respect of 0-29 guntas pending disposal of the suit and such is the situation, ordering deletion of 0-29 guntas comprising Survey No.130/B from the pattedar passbook of the petitioner cannot be sustained.

10. Accordingly, the order of the Revenue Divisional Officer-2nd respondent as well as Collector, in respect of the deletion of the entry from the pattedar pass book of the petitioner in respect of 0-29 guntas comprising S.No. 130/B is set aside. If the 3rd respondent succeed in the suit, he is entitled for inclusion of Ac.0-29 guntas also in his pattedar pass book.

11. Accordingly, the writ petition is allowed. No order as to costs.

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B.Seshasayana Reddy,J

28th September, 2005.

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**THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

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